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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,707	12/04/2003	Yoshinori Watanabe	U2054.0145	7043
32173 7590 04/14/2009 DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) NEW YORK, NY 10036-2714				
EXAMINER ELCENKO, ERIC J				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 04/14/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/726,707

Applicant(s)

WATANABE, YOSHINORI

Examiner

ERIC ELCENKO

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 14 and 27 is/are rejected.
- 7) ☒ Claim(s) 2-13 and 15-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

The applicant argues there is no reason to combine the prior art references. The examiner disagrees.

1. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The references, Rappaport and Senga, both involve the setup of an area in which a communication network will be deployed. They both disclose teachings of how to treat a signal being sent and the most efficient way to handle (process) the signal. This is also read upon as the prediction of the path of the ray as the determination for an optimal position of a base station includes predicting a best path of a signal propagating through a certain area.

Rappaport teaches how to arrange points in a network in an office building or similar type of structure to find the optimal placement of a base station. Watch points are placed around to help the determination for the optimal location and use information gathered at watch points. Senga teaches grouping of the reception points in a multicast

environment for ease of reception processing. One of ordinary skill in the art could combine these prior art elements using known techniques to yield results predictable to one of ordinary skill in the art of processing signal being sent to multiple locations and processing the information gathered at these locations by putting multiple watch points into groups for an area for greater ease in processing information for a certain location. Therefore, the prior art of record applied to the case has sufficient reasoning for combination involving reception processing of signals and location based reception.

Applicant also states Senga does not disclose claimed teachings which the office action admits are deficient in Rappaport specifically stating the claims "reception determination processing of a ray." The office does not admit this is not taught by Rappaport anywhere in the preceding action. The office action states Rappaport teaches this limitation on Page 2, wherein Rappaport places watch points around a location as reception points and processes the information gathered at these reception points in regard to the optimal placement of base stations in the location.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 14 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rappaport et al. (U.S. Pat. No. 7,085,697) in view of Senga et al. (U.S. Pub. No. 2002/0065928

In regard to claims 1, 14 and 27, Rappaport teaches a reception determination method of a ray, in which a path of a ray provided within an observation region is predicted, (*Rappaport teaches designing/deploying a communications network inside of an office building or similar type of structure in which the optimal base station location is to be found. The observation region is such as seen in Fig 4 of the area surrounding transmitter 107, Col 7, Ln 62-67; Fig 4*) and reception determination processing is applied to reception points of said ray which are arranged in advance within said observation region, (*the reception points are read in Rappaport as the watch points which are placed by the designers all around the observation region where they believe it is best served to gather the best information for design of the communication system, The watch points send back data such as a received signal strength, RSSI, SIR ratio, SNR ratio, FER and BER or other performance metrics, the processing being applied to the determined watch points of interest by the designers. Col 8, Ln 29-33, Ln 43-46; Col 8 Ln 63-Col 9 Ln 13*)

Rappaport does not teach the reception points are arranged into groups within the observation region for singular or plural reception point grouping.

Senga teaches a multicast system which puts multiple terminals into groups containing multiple terminals for reception processing. The terminals are then able to be controlled group by group rather than on an individual basis. (Para 18-23, 106-110)

It would have been obvious to one of ordinary skill in the art to modify Rappaport to include the teachings of Senga. Senga teaches reception points being placed into groups for ease of reception processing by being able to control terminals with a group signal rather than all separate individual signals. Placing terminals in groups allows for ease of control of all the reception points. When placed in combination with Rappaport, the combination would disclose reception processing of the ray upon reception points in the observation region that are placed into multiple groups.

Allowable Subject Matter

4. Claims 2-13 and 15-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC ELCENKO whose telephone number is (571)272-8066. The examiner can normally be reached on M-F 7:30 AM through 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ee

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2626